

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE THP CAPSTAR ACQUISITION CORP. (now
known as DMX, INC.)

09 Civ. 7069 (DLC)

For the Determination of Reasonable License Fees.

Related to

41 Civ. 1395 (DLC)

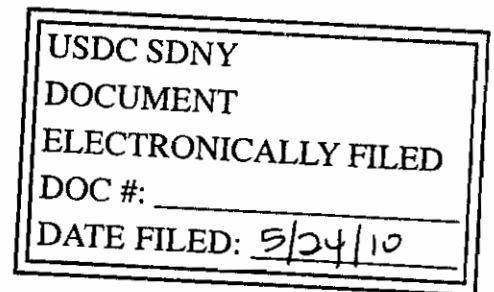
UNITED STATES OF AMERICA,

Plaintiff,

v.

AMERICAN SOCIETY OF COMPOSERS, AUTHORS
AND PUBLISHERS,

Defendant.



SECOND AMENDED PRETRIAL SCHEDULING ORDER

Defendant American Society of Composers, Authors and Publishers ("ASCAP") and Applicant THP Capstar Acquisition Corp. (now known as DMX, Inc.) ("DMX") submit this Amended Pretrial Scheduling Order in accordance with Federal Rule of Civil Procedure 26(f). Counsel for the Parties have conferred and jointly propose the following revised pretrial schedule:

1. All fact discovery must be completed by **July 2, 2010**.
2. Parties' identification of experts and disclosure of expert testimony conforming to the requirements of Rule 26(a)(2)(B), Fed. R. Civ. P., must occur by **July 16, 2010**. Disclosure of rebuttal expert testimony must occur by **August 9, 2010**.
3. All expert discovery must be completed by **August 31, 2010**.
4. The Joint Pretrial Order must be filed by **September 10, 2010**.

As described in this Court's Individual Practices in Civil Cases, the following documents must be filed with the Pretrial Order: Proposed Findings of Fact and Conclusions of Law and a

Memorandum of Law addressing all questions of law expected to arise at trial. Any responsive memorandum of law is due one week thereafter.

All direct testimony except for the testimony of an adverse party, a person whose attendance must be compelled by subpoena, or a witness for whom a party has requested and the Court has agreed to hear the direct testimony at trial, shall be submitted by affidavits served, **but not filed**, with the Joint Pretrial Order.

Those portions of depositions that are being offered as substantive evidence, along with a one page synopsis (with transcript citations) of such testimony for each deposition, shall be exchanged at the time the Pretrial Order is filed.

Three days after submission of the affidavits, counsel for each party shall submit a list of all affiants that he or she intends to cross-examine at the trial. Affiants for whom such notice is not given are not required to be present at trial.

Counsel will provide the Court with two (2) courtesy copies of all these documents at the time they are served, as well as one set of pre-marked exhibits assembled sequentially i) in a looseleaf binder, or ii) in separate manila folders labeled with the exhibit numbers and placed in a suitable container or box for ready reference.

SO ORDERED

Dated: New York, New York
May 14, 2010


United States District Judge